

Chapter 5

CASE FILE PREPARATION AND DOCUMENTATION

I. Introduction.

These instructions are provided to assist CSHOs in determining the minimum level of written documentation necessary in preparation of an inspection case file. All necessary information relative to documentation of violations shall be obtained during the inspection, (including but not limited to notes, audio/videotapes, photographs, employer and employee interviews and employer maintained records). CSHOs shall develop detailed information for the case file to establish the specific elements of each violation.

CSHOs and the Administrator shall follow all procedures, including those established by the Legal Section, when an inspection involves important or novel facts or presents potentially complex litigation issues. If discussion is necessary, it shall be conducted at the earliest possible stage of the inspection.

II. Inspection Conducted, Citations Being Issued.

All case files must include the following forms and documents.

A. OSHA-1.

The CSHO shall obtain available information to complete the OSHA-1 and other appropriate forms.

B. OSHA-1A.

The OSHA-1A shall list the following:

1. Establishment Name;
2. Inspection Number;
3. Additional Citation Mailing Addresses;
4. Names and Addresses of all Organized Employee Groups;
5. Names, Addresses and Phone Numbers of Authorized Representatives of Employees;
6. Employer Representatives contacted and the extent of their participation in the inspection;

7. CSHO's evaluation of the Employer's Safety and Health System, and if applicable, a discussion of any penalty reduction for good faith;
8. A written narrative containing accurate and concise information about the employer and the worksite;
9. Date the closing conference(s) was held and description of any unusual circumstances encountered;
10. Any other relevant comments/information CSHOs believe may be helpful, based on his/her professional judgment;
11. Names, Addresses and Phone Numbers of other persons contacted during the inspection, such as the police, coroner, attorney, etc.;
12. Names and Job Titles of any individuals who accompanied the CSHO on the inspection;
13. Calculation of the DART rate (at least three full calendar years and the current year);
14. Discussion clearly addressing all items on the Complaint or Referral;
15. Type of Legal Entity [Indicate whether the employer is a corporation, partnership, sole proprietorship, etc. (Do not use the word "owner.") If the employer named is a subsidiary of another firm, indicate that.]; and
16. Coverage Information.

C. OSHA-1B.

1. A separate OSHA-1B should normally be completed for each alleged violation. Describe the observed hazardous conditions or practices, including all relevant facts, and all information pertaining to how and/or why a standard is violated. Specifically identify the hazard to which employees have been or could be exposed. Describe the type of injury or illness which the violated standard was designed to prevent in this situation, or note the name and exposure level of any contaminant or harmful physical agent to which employees are, have been, or could be potentially exposed. If employee exposure was not actually observed during the inspection, state the facts on which the determination was made

(i.e., tools left inside an unprotected trench) that an employee has been or could have been exposed to a safety or health hazard.

2. The following information shall be documented:
 - a. Explanation of the hazard(s) or hazardous condition(s);
 - b. Identification of the machinery or equipment (such as equipment type, manufacturer, model number, serial number);
 - c. Specific location of the hazard and employee exposure to the hazard;
 - d. Injury or illness likely to result from exposure to the hazard;
 - e. Employee proximity to the hazard and specific measurements taken, (describe how measurements were taken, identify the measuring techniques and equipment used, identify those who were present and observed the measurements being made, include calibration dates of equipment used);
 - f. For contaminants and physical agents, any additional facts that clarify the nature of employee exposure. A representative number of Material Safety Data Sheets should be collected for hazardous chemicals that employees may potentially be exposed to;
 - g. Names, addresses, phone numbers, and job titles for exposed employees;
 - h. Approximate duration of time the hazard has existed and frequency of exposure to the hazard;
 - i. Employer knowledge;
 - j. Any and all facts which establish that the employer actually knew of the hazardous condition, or what reasonable steps the employer failed to take (including regular inspections of the worksite) that could have revealed the presence of the hazardous condition. The mere presence of the employer in the workplace is not sufficient evidence of knowledge. There must be evidence that demonstrates why the employer reasonably could have recognized the presence of the hazardous condition. Avoid relying on conclusory statements such as “reasonable diligence” to establish employer knowledge. See [Chapter 4](#).

[Paragraph II.C.4.](#), *Knowledge of the Hazardous Condition*, for additional information.

- In order to establish that a violation may be potentially classified as willful, facts shall be documented to show either that the employer knew of the applicable legal requirements and intentionally violated them or that the employer showed plain indifference to employee safety or health (See [Section V of Chapter 4](#), *Willful Violations*). For example, document facts that the employer knew that the condition existed and that the employer was required to take additional steps to abate the hazard. Such evidence could include prior OSHA citations, previous warnings by a CSHO, insurance company or city/state inspector regarding the requirements of the standard(s), the employer's familiarity with the standard(s), contract specifications requiring compliance with applicable standards, or warnings by employees or employee safety representatives of the presence of a hazardous condition and what protections are required by OSHA standards.
 - Also include facts showing that even if the employer was not consciously or intentionally violating the Act, the employer acted with such plain indifference for employee safety that had the employer known of the standard, it probably would not have complied anyway. This type of evidence would include instances where an employer was aware of an employee exposure to an obviously hazardous condition(s) and made no reasonable effort to eliminate it.
 - Any relevant comments made by the employer or employee during the walk around or closing conference, including any employer comments regarding why it violated the standard, which may be characterized as admissions of the specific violations described; and
- k. Include any other facts, which may assist in evaluating the situation or in reconstructing the total inspection picture in preparation for testimony in possible legal actions.
- l. Appropriate and consistent abatement dates should be assigned and documented for abatement periods longer than 30 days. The abatement period shall be the shortest interval within

which the employer can reasonably be expected to correct the violation. An abatement period should be indicated in the citation as a specific date, not a number of days. When abatement is witnessed by the CSHO during an inspection, the abatement period shall be listed on the citation as “Corrected During Inspection.”

- m. The establishment of the shortest practicable abatement date requires the exercise of professional judgment on the part of the CSHO. Abatement periods exceeding 30 days shall not normally be offered, particularly for simple safety violations. Situations may arise, however, especially for complex health or program violations, where abatement cannot be completed within 30 days (e.g., ventilation equipment needs to be installed, new parts or equipment need to be ordered, delivered and installed or a process hazard analysis needs to be performed as part of a PSM program). When an initial abatement date is granted that is in excess of 30 calendar days, the reason should be documented in the case file.
 - n. Discussion of reasoning for severity and probability determination(s).
- 3. Records obtained during the course of the inspection which the CSHO determines are necessary to support the violations.
 - 4. For violations classified as repeated, the file shall include a copy of the previous citation(s) on which the repeat classification is based and documentation of the final order date of the original citation.

III. Inspection Conducted But No Citations Issued.

For inspections that do not result in citations being issued, a lesser amount of documentation may be included in the case file. At a minimum, the case file shall include the OSHA-1, the OSHA-1A, and a general narrative/statement that at the time of the inspection no conditions were observed in violation of any standard, and a complaint/referral response letter, if appropriate shall clearly address all of the item(s).

IV. No Inspection.

For “No Inspections,” the CSHO shall include in the case file an OSHA-1, which indicates the reason why no inspection was conducted. If there was a denial of entry, the information necessary to obtain a warrant or an explanation of why a warrant is not being sought shall be included. The case file shall also include a

complaint/referral response letter, if appropriate, which explains why an inspection was not conducted.

V. Health Inspections.

A. Document Potential Exposure.

In addition to the documentation indicated above, CSHOs shall document all relevant information concerning potential exposure(s) to chemical substances or physical agents (including, as appropriate, collection and evaluation of applicable Material Safety Data Sheets), such as symptoms experienced by employees, duration and frequency of exposures to the hazard, employee interviews, sources of potential health hazards, types of engineering or administrative controls implemented by the employer, and personal protective equipment being provided by the employer and used by employees.

B. Employer's Occupational Safety and Health System.

CSHOs shall request and evaluate information on the following aspects of the employer's occupational safety and health system as it relates to the scope of the inspection:

1. Monitoring.

The employer's system for monitoring safety and health hazards in the establishment should include a program for self-inspection. CSHOs shall discuss the employer's maintenance schedules and inspection records. Additional information shall be obtained concerning activities such as sampling and calibration procedures, ventilation measurements, preventive maintenance procedures for engineering controls, and laboratory services. Compliance with the monitoring requirements of any applicable substance-specific health standards shall be determined.

2. Medical.

CSHOs shall determine whether the employer provides the employees with pre-placement and periodic medical examinations. The medical examination protocol shall be requested to determine the extent of the medical examinations and, if applicable, compliance with the medical surveillance requirements of any applicable substance-specific health standards.

3. Records Program.

CSHOs shall determine the extent of the employer's records program, such as whether records pertaining to employee exposure

and medical records are being maintained in accordance with [§1910.1020](#).

4. **Engineering Controls.**

CSHOs shall identify any engineering controls present, including substitution, isolation, general dilution and local exhaust ventilation, and equipment modification.

5. **Work Practice and Administrative Controls.**

CSHOs shall identify any control techniques, including personal hygiene, housekeeping practices, employee job rotation, employee training and education. Rotation of employees as an administrative control requires employer knowledge of the extent and duration of exposure.

NOTE: Employee rotation is not permitted as a control under some standards.

6. **Personal Protective Equipment.**

An effective personal protective equipment program should exist in the plant. A detailed evaluation of the program shall be documented to determine compliance with specific standards, such as, §§ [1910.95](#), [1910.134](#), and [1910.132](#).

7. **Regulated Areas.**

CSHOs shall investigate compliance with the requirements for regulated areas as specified by certain standards. Regulated areas must be clearly identified and known to all appropriate employees. The regulated area designation must be maintained according to the prescribed criteria of the applicable standard.

8. **Emergency Action Plan.**

CSHOs shall evaluate the employer's emergency action plan when such a plan is required by a specific standard. When standards provide that specific emergency procedures be developed where certain hazardous substances are handled, CSHO's evaluation shall determine if: potential emergency conditions are included in the written plan, emergency conditions are explained to employees and there is a training program for the protection of affected employees, including use and maintenance of personal protective equipment.

VI. Affirmative Defenses.

An affirmative defense is a claim which, if established by the employer and found to exist by the CSHO, will excuse the employer from a citation that has otherwise been documented.

A. Burden of Proof.

Although employers have the burden of proving any affirmative defenses at the time of a hearing, CSHOs must anticipate when an employer is likely to raise an argument supporting such a defense. CSHOs shall keep in mind all potential affirmative defenses and attempt to gather contrary evidence, particularly when an employer makes an assertion that would indicate raising a defense/excuse against the violation(s). CSHOs shall bring all documentation of hazards and facts related to possible affirmative defenses to the attention of the Administrator or designee.

B. Explanations.

The following are explanations of common affirmative defenses.

1. Unpreventable Employee or Supervisory Misconduct or “Isolated Event.”

- a. To establish this defense employers must show all the following elements:
 - A work rule adequate to prevent the violation;
 - Effective communication of the rule to employees;
 - Methods for discovering violations of work rules; and
 - Effective enforcement of rules when violations are discovered.
- b. CSHOs shall document whether these elements are present, including if the work rule at issue tracks the requirements of the standard addressing the hazardous condition.

EXAMPLE 5-1: An unguarded table saw is observed. The saw, however, has a guard which is reattached while the CSHO watches. Facts to be documented include:

- Who removed the guard and why?

- Did the employer know that the guard had been removed?
- How long or how often had the saw been used without the guard?
- Were there any supervisors in the area while the saw was operated without a guard?
- Did the employer have a work rule that the saw only be operated with the guard on?
- How was the work rule communicated to employees?
- Did the employer monitor compliance with the rule?
- How was the work rule enforced by the employer when it found noncompliance?

2. **Impossibility/Infeasibility of Compliance.**

Compliance with the requirements of a standard is impossible or would prevent performance of required work **and the employer took reasonable alternative steps to protect employees or there are no alternative means of employee protection available.**

EXAMPLE 5-2: An unguarded table saw is observed. The employer states that a guard would interfere with the nature of the work. Facts to be documented include:

- Would a guard make performance of the work impossible or merely more difficult?
- Could a guard be used some of the time or for some of the operations?
- Has the employer attempted to use a guard?
- Has the employer considered any alternative means of avoiding or reducing the hazard?

3. **Greater Hazard.**

Compliance with a standard would result in a greater hazard(s) to employees than would noncompliance **and** the employer took reasonable alternative protective measures, or there are no

alternative means of employee protection. Additionally, an application for a variance would be inappropriate.

EXAMPLE 5-3: The employer indicates that a saw guard had been removed because it caused the operator to be struck in the face by particles thrown from the saw. Facts to be documented include:

- Was the guard initially properly installed and used?
- Would a different type of guard eliminate the problem?
- How often was the operator struck by particles and what kind of injuries resulted?
- Would personal protective equipment such as safety glasses or a face shield worn by the employee solve the problem?
- Was the operator's work practice causing the problem and did the employer attempt to correct the problem?
- Was a variance requested?

VII. Interview Statements.

A. Generally.

Interview statements of employees or other individuals shall be obtained to adequately document a potential violation. Statements shall normally be in writing and the individual shall be encouraged to sign and date the statement. During management interviews, CSHOs are encouraged to take verbatim, contemporaneous notes whenever possible as these tend to be more credible than later general recollections.

B. CSHOs should obtain written statements when:

1. There is an actual or potential controversy as to any material facts concerning a violation;
2. A conflict or difference among employee statements as to the facts arises;
3. There is a potential willful or repeated violation; and
4. In accident investigations, when attempting to determine if potential violations existed at the time of the accident.

C. Language and Wording of Statement.

Interview statements shall normally be written in the first person and in the language of the individual when feasible. (Statements taken in a language other than English shall be subsequently translated.) The wording of the statement shall be understandable to the individual and reflect only the information that has been brought out in the interview. The individual shall initial any changes or corrections to the statement; otherwise, the statement shall not be modified, added to or altered in any way. The statement shall end with the wording: "I have read the above, or the statement has been read to me, and it is true to the best of my knowledge." Where appropriate, the statement shall also include the following: "I request that my statement be held confidential to the extent allowed by law." Only the individual interviewed may later waive the confidentiality of the statement. The individual shall sign and date the interview statement and the CSHO shall sign it as a witness.

D. Refusal to Sign Statement.

If the individual refuses to sign the statement, the CSHO shall note such refusal on the statement. Statements shall be read to the individual and an attempt made to obtain an agreement. A note to this effect shall be documented in the case file. Recorded statements shall be transcribed whenever possible.

E. Video and Audiotaped Statements.

Interview statements may be videotaped or audiotaped, with the consent of the person being interviewed. The statement shall be reduced to writing in egregious, fatality/catastrophe, willful, repeated, failure to abate, and other significant cases so that it may be signed. CSHOs are encouraged to produce the written statement for correction and signature as soon as possible, and identify the transcriber.

F. Administrative Depositions.

When necessary to document or develop investigative facts, a management official or other individual may be administratively deposed.

NOTE: See [Chapter 3, Paragraph VII.I.4.](#), Interviews of Non-Managerial Employees, for additional guidance regarding interviews of non-managerial employees.

VIII. Paperwork and Written Program Requirements.

In certain cases, violations of standards requiring employers to have a written program to address a hazard or make a written certification (e. g., hazard communication, personal protective equipment, permit required confined spaces and others) are considered paperwork deficiencies. However, in some circumstances, violations of such standards may have an adverse impact on employee safety and health. See [CPL 02-00-111](#), *Citation Policy for Paperwork and Written Program Requirement Violations*.

IX. Guidelines for Case File Documentation for Use with Videotapes and Audiotapes.

The use of videotaping as a method of documenting violations and of gathering evidence for inspection case files is encouraged. Certain types of inspections, such as fatalities, imminent danger and ergonomics should include videotaping. Other methods of documentation, such as handwritten notes, audiotaping, and photographs, continue to be acceptable and are encouraged to be used whenever they add to the quality of the evidence and whenever videotaping equipment is not available. See [CPL 02-00-098](#), *Guidelines for Case File Documentation for use with Videotapes and Audiotapes*, dated October 12, 1993.

X. Case File Activity Diary Sheet.

All case files shall contain an activity diary sheet, which is designed to provide a ready record and summary of all actions relating to a case. It will be used to document important events or actions related to the case, especially those not noted elsewhere in the case file. Diary entries should be clear, concise and legible and should be dated in chronological order to reflect a timeline of the case development. Information provided should include, at a minimum, the date of the action or event, a brief description of the action or event and the initials of the person making the entry. When a case file is completed, the CSHO must ensure that it is properly organized.

XI. Citations.

Iowa Code Chapter 88.7 addresses the form and issuance of citations.

Chapter 88.7 provides: "... Each citation shall be in writing and shall describe with particularity the nature of the violation including a reference to the provision of the chapter, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation...."

A. Statute of Limitations.

Chapter 88.7(3) provides. "...No citation may be issued under this Section after the expiration of six months following the occurrence of any violation." Accordingly, a citation shall not be issued where any alleged violation last occurred six months or more prior to the date on which the citation is actually signed, dated and served by certified mail as provided by Chapter 88.8 of the Iowa Code. Where the actions or omissions of the employer concealed the existence of the violation, the six-month issuance limitation is tolled until such time that OSHA learns or could have learned of the violation. The Legal Section shall be consulted in such cases. In some cases, particularly those involving fatalities or accidents, the six-month period begins to run from the date of the incident, not from the opening conference date.

B. Issuing Citations.

1. Citations shall be sent by certified mail. Hand delivery of citations to the employer or an appropriate agent of the employer, or use of a mail delivery service other than the United States Postal Service, may be used **in addition** to certified mail if it is believed that these methods would effectively give the employer notice of the citation. A signed receipt shall be obtained whenever possible. The circumstances of delivery shall be documented in the diary sheet.
2. Citations shall be mailed to employee representatives after the Certified Mail Receipt card is received by the Office. Citations shall also be mailed to any employee upon request and without the need to make a written request under Iowa Code Chapter 22 Open Records. In the case of a fatality, the family of the victim shall be provided with a copy of the citations without charge or the need to make a written request.

C. Amending/Withdrawing Citations and Notification of Penalties.

1. Amendment Justification.

Amendments to, or withdrawal of, a citation shall be made when information is presented to the Administrator or designee, which indicates a need for such action and may include administrative or technical errors such as:

- a. Citation of an incorrect standard;
- b. Incorrect or incomplete description of the alleged violation;

- c. Additional facts not available to the CSHO at the time of the inspection establish a valid affirmative defense;
- d. Additional facts not available to the CSHO at the time of the inspection establish that there was no employee exposure to the hazard; or
- e. Additional facts establish a need for modification of the abatement date or the penalty, or reclassification of citation items.

2. When Amendment is not Appropriate.

Amendments to, or withdrawal of, a citation shall not be made by the Administrator or designee for any of the following:

- a. Timely Notice of Contest received;
- b. The 15 working days for filing a Notice of Contest has expired and the citation has become a Final Order; or
- c. Employee representatives were not given the opportunity to present their views (unless the revision involves only an administrative or technical error).

D. Procedures for Amending or Withdrawing Citations.

The following procedures apply whenever amending or withdrawing citations.

NOTE: The instructions contained in this section, with appropriate modifications, are also applicable to the amendment of the OSHA-2B, Notification of Failure to Abate Alleged Violation.

- 1. Withdrawal of, or modifications to, the citation and notification of penalty, shall normally be accomplished by means of Informal or Formal Settlement Agreements.
- 2. In exceptional circumstances, the Administrator or designee may initiate a change to a citation and notification of penalty without an informal conference. If proposed amendments to citation items (individual violations) change the original classification of the items, such as willful to repeated, the original items shall be withdrawn and the new, appropriate items will be issued. The amended Citation and Notification of Penalty Form (OSHA-2) shall clearly indicate that the employer is obligated under the Iowa Code to post the amendment to the citation along with the original

citation, until the amended violation has been corrected, or for three working days, whichever is longer.

3. The 15 working day contest period for the amended portions of the citation will begin on the day following the day of receipt of the amended Citation and Notification of Penalty.
4. The contest period is not extended for the unamended portions of the original citation. A copy of the original citation shall be attached to the amended Citation and Notification of Penalty Form when the amended form is forwarded to the employer.
5. When circumstances warrant, the Administrator or designee may withdraw a citation and notification of penalty in its entirety. Justification for the withdrawal must be noted in the case file. A letter withdrawing the Citation and Notification of Penalty shall be sent to the employer. The letter, signed by the Administrator or designee, shall refer to the original citation and notification of penalty, state that they are withdrawn and direct that the employer post the letter for three working days in the same location(s) where the original citation was posted. When applicable, a copy of the letter shall also be sent to the employee representative(s) and/or complainant.

XII. Inspection Records.

A. Generally.

1. Inspection records are any record made by a CSHO and Iowa OSHA staff that concern, relate to, or are part of, any inspection, or are a part of the performance of any official duty. Inspection records are to be organized and maintained in Inspection Case Files. Refer to Appendix A of this Chapter for detailed information on Case File contents and organization.
2. All official forms and notes constituting the basic documentation of a case must be part of the case file. All original field notes are part of the inspection record and shall be maintained in the file. Inspection records also include photographs (including digital photographs), negatives of photographs, videotapes, DVDs, CDs and audiotapes. Inspection records are the property of the State and not the property of the CSHO and are not to be retained or used for any private purpose.

B. Release of Inspection Information.

The information obtained during inspections is confidential, but may be disclosable or non-disclosable based on criteria established in Iowa's Open Records Statute, Iowa Code Chapter 22. Requests for release of inspection information shall be directed to the Administrator or designee.

C. Classified and Trade Secret Information.

1. Any classified or trade secret information and/or personal knowledge of such information by agency personnel shall be handled in accordance with OSHA regulations. Trade Secrets are matters that are not of public or general knowledge. A trade secret, as referenced in Iowa Code 88.12, includes information such as processes, operations, style of work, or apparatus. The collection of such information and the number of personnel with access to it shall be limited to the minimum necessary for the conduct of investigative activities. CSHOs shall specifically identify any classified and trade secret information in the case file. See IAC 875-3.8. Iowa Code 88.14(8), provides for serious misdemeanor penalties in the event of improper disclosure and possible removal from office or employment.
2. It is essential to the effective enforcement of the Act that CSHOs and all OSHA personnel preserve the confidentiality of all information and investigations which might reveal a trade secret. When the employer identifies an operation or condition as a trade secret, it shall be treated as such (unless, after following proper procedures, including consulting with the Legal Section, the agency determines that the matter is not a trade secret). Information obtained in such areas, including all negatives, photographs, videotapes and documentation forms shall be labeled:

"TRADE SECRET INFORMATION"
3. Under Iowa Code 88.12, all information reported to or obtained by CSHOs in connection with any inspection or other activity which contains or may reveal a trade secret shall be kept confidential. Such information shall not be disclosed except to other OSHA officials concerned with the enforcement of the Act or, when relevant, in any proceeding under the Code.
4. Trade secret materials shall not be labeled as "Top Secret," "Secret," or "Confidential," nor shall these security classification designations be used in conjunction with other words, unless the trade secrets are also classified by an agency of the U. S. Government in the interest of national security.

5. If the employer objects to the taking of photographs and/or videotapes because trade secrets would or may be disclosed, CSHOs should advise employers of the protection against such disclosure afforded by Iowa Code 88.12 and IAC 875-3.8(88). If the employer still objects, CSHOs shall contact the Legal Section, Administrator or designee for guidance.

D. Medical Information.

Medical information shall be treated as confidential pursuant to any state or federal confidentiality laws. CSHOs may ask for and receive medical information from employees. CSHOs may ask Legal Staff for Medical Release forms for employees to sign if it is necessary to receive medical information from third party sources.

APPENDIX A. INSPECTION CASE FILE ORGANIZATION

- I. **Introduction.** This appendix outlines the structure and content of inspection case files.
- II. **Inspection Case File Definition.** An inspection case file shall be composed of all documents relating to a single inspection of an establishment. Separate inspections of the same establishment shall be filed in separate inspection case files. However, actions which form an essential part or continuation of the original inspection, such as follow-ups and interim monitoring inspections, shall be filed in the original case file. Simultaneous health and safety inspections of the same establishment shall be filed separately if they constitute complete, separate inspections. Materials such as video or audiotapes filed separately from the case file are still considered integral parts of the case file as are documentary materials maintained in electronic media.
- III. **External File Structure.**
 - A. **Numerical Filing.** Support staff will assign a sequential number to each employer. Non-Construction employers with multiple locations will be assigned a number for each location. Numbers for employers or locations will be assigned at the time of the first Iowa OSHA inspection activity. Case files will be stored in the file racks in numerical ascending order for three calendar years after the case is closed. Case files that have been closed for two years will be transferred to archives where they will be stored for ten years then destroyed. When a case file has been removed from the file rack for processing, reference, or is too large for the file rack system, a file marker will be inserted in the proper numerical order. The file marker will indicate who has removed the case file or where the file is stored.
 - B. **Label Preparation.** A case file label will be printed using the Net Labels program. The printed label will contain the case file number printed in black numerals approximately ½ tall, with color coded tabs corresponding to the case file number, the name of the employer, complaint number or referral number if applicable, the inspection number and the CSHO ID. A numerical tab will be placed above the printed information to indicate the year the inspection was initiated. When the case is closed a label with the printed letters C will be placed above the year numeral. The label will be attached to the vertical tab on the letter size file folder. The label will be printed so when attached to the case file folder it may be read from either side of the tab. If the case file exceeds the capacity of the Net Labels file folder an expandable file folder or a document box will be utilized and identified with the Net Labels label.
- IV. **Internal File Structure.**
 - A. **Electronic Documents.** If electronic files are maintained either in addition to or instead of paper files, the electronic documents relating to one case must be maintained together as a unit.

- B. **Forms and Notes.** All official forms and notes constituting the documentation of a case must be part of the case file. This material shall be attached to the RIGHT side of the case file folder in the order noted in paragraph E.1.a. All official forms and notes relating to follow up inspections shall be maintained in the same order, but shall be placed on top of the forms and notes relating to the original inspection.
- C. **Correspondence.** All correspondence relating to the case, before a case is transferred to the Legal Section, shall be attached to the RIGHT side of the folder with the most recent correspondence on top. (See paragraph V. A. 2. for a description of the types of materials included as correspondence.) After a case has been transferred to the Legal Section all correspondence and documents will be filed on the LEFT side of the folder.
- D. **Mail Receipts.** Mail receipts shall be stapled to the back of the documents to which they relate. Be sure information is not covered by the receipt. For example the mail receipt for a OSHA2 (citation) will be stapled to the back of the first page of the document. If a mail receipt cannot be placed on the back of the related document, place the receipt on a blank sheet of paper and staple the paper to the applicable document.
- E. **Miscellany.** Miscellaneous inspection case file documentation not clearly falling into either paragraph IV.A., IV.B., or IV.C above shall be filed as correspondence on the RIGHT side of the folder. If too voluminous to fit easily into the inspection case file folder, file the information in an expandable file folder or a document box, labeled as stated above, and note the location on the inspection case file folder. Safety manuals, employer written programs, operator manuals and similar material should be placed in the inspection case file in the printed information section.

V. **Filing Arrangement - Inspection Case File Contents.**

- A. Forms and Related Documentation. The following listing is an itemization of the OSHA forms and related documentation which appear on the RIGHT side of the case file, IN ORDER FROM TOP TO BOTTOM. File amendments and any official notes with the forms to which they relate.
 - 1. IOSHA 2B Notification of Failure to Abate Alleged Violation.
 - 2. IOSHA 2 Citation and Notification of Penalty. (This includes amendments. Place amendments on top of the original OSHA-2.)
 - 3. IOSHA 2H Notice of Unsafe or Unhealthful Working Conditions, or Hazard Correction List.
 - 4. IOSHA 8 Notice of Alleged Imminent Danger.
 - 5. IOSHA 1MOD Inspection Report-Modification.
 - 6. IOSHA 1 Inspection Report.
 - 7. IOSHA 1A Narrative. (This includes injury and illness data supporting the OSHA-1A).
 - 8. IOSHA 170 Investigation Summary.

9. IOSHA 36 Fatality/Catastrophe Report.
10. IOSHA 7 Notice of Alleged Safety or Health Hazards.
11. IOSHA 90 Referral Report.
12. IOSHA 168 Inspection Assignment.
13. IOSHA 94 Note Taking Sheet.

NOTE: Although the OSHA 94 is prescribed for use with the OSHA 1A as a continuation sheet by OSHA Instruction CPL 2.45A, it may be used with any of the compliance related forms as a continuation or note taking sheet.

14. IOSHA 1B/1B(IH) Worksheet.

The IH forms listed below describe violations alleged on IH 1Bs. Fill these forms immediately after the last 1B form.

- a. IOSHA 91A Air Sampling Worksheet.
 - b. IOSHA 91B Air Sampling Report.
 - c. IOSHA 93 Direct Reading Report.
 - d. IOSHA 98 Screening Report.
 - e. IOSHA 92 Noise Survey Report.
 - f. IOSHA 99 Octave Band Analysis and Impact Noise.
15. Technical Information. This includes information supporting violations, employer's safety and health reports, material safety data sheets, and the like.
16. Field Notes. (Number field notes as a unit.)
17. Fair Information Practices Act Notice (commonly referred to as Pink Sheets) containing interviewee data will be placed behind the photographic information
18. Compliance Plans.
19. IOSHA 89 Photo Mounting Worksheet. NOTE: Negatives or digital data media which relate to cited items are located in an envelope with the opening flap on the bottom so the contents can be removed without disturbing the contents above.
20. Other Materials.
 - a. Photograph information not mounted on an IOSH 89 are to be placed on a CD or printed and placed in an envelope with the opening flap down to allow access to the contents without disturbing the contents of the case file above.
 - b. Undeveloped Film. These undeveloped rolls of film are related to specific inspections but were not developed because of no specific need or because the case was not contested.

- c. Video and Audiotape. These video and audio tapes are related to specific inspections. Video and audio tapes are record material and are an integral part of the inspection case file to which they relate.
- 21. Complaint letters and documents will be placed as the bottom item on the right side of the case file.
- B. **Correspondence and Miscellaneous Information.** The following is a list of the types of correspondence and miscellaneous case documentation which shall appear on the RIGHT side of the case file with the exception of the Diary Sheet which will be filed on top of the material filed on the LEFT side of the case file. The material listed below will normally be received or generated after the case file is turned in by CSHOs. This material will be placed on top of the turned in case file.
 - 1. **Method of Filing.** This material shall be FILED IN REVERSE CHRONOLOGICAL ORDER(i.e., with the most recent correspondence and other information on top). DO NOT file this material in the order in which it is listed below. The diary sheet is an exception to the reverse chronological order rule.
 - 2. **IOSHA 166 Citation Record Update.**
 - 3. **IOSHA 167I Inspection Record Update.** (This also includes IOSHA 1 forms for modifications only.)
 - 4. **IOSHA 167C Complaint Record Update.**
 - 5. **IOSHA 163 Penalty Payment Report.**
 - 6. **Penalty Information.**
 - a. Request for payment.
 - b. Copy of penalty reminder.
 - c. Copy of check.
 - d. Letter of refusal to pay past due penalty.
 - 7. **Abatement Information.**
 - a. Letter of abatement.
 - b. Employer statement of abatement.
 - c. Petition for Modification of Abatement (PMA) request and correspondence.
 - d. Letter of past due abatement.
 - e. Progress report of abatement.
 - f. List of detailed expenditures for abatement.
 - g. Contract work proposal (abatement agreements).
 - 8. **Planned Method of Abatement.**
 - a. Letter requesting and correspondence relating to planned method of abatement.
 - b. IOSHA acknowledgment of receipt of planned method of abatement.

9. **General Correspondence.**

- a. Informal settlement information.
- b. Informal conference information.
- c. Denial of entrance information including application, warrant and related information.
- d. Employer correspondence.
- e. Transmittal to Legal Section.
- f. Follow up correspondence.
- g. Employer's Representative correspondence.
- h. Employee's Representative correspondence.

10. **Informal Documentation.** This includes memoranda to the file, memoranda of conversation, and similar informal documentation recording telephone calls, visits, meetings, and the like.

C. **Contested Case Information, Legal Staff Correspondence, and Diary Sheet.**

The following correspondence and miscellaneous case documentation dealing with Legal Staff activity shall appear on the LEFT side of the case file.

1. **Contested Case Information and Correspondence.**

- a. Employment Appeal Board orders.
- b. Letter of contest.
- c. Transmittal documents.
- d. Acknowledgement of case.
- e. Final order.
- f. Legal Section's correspondence.

2. **Diary Sheet.**

This sheet is placed on the top of the material on the left side of the folder. The diary sheet may be used to note important telephone and face-to-face conversations, the date of important actions such as opening inspection date, date citation sent and any other activities deemed important enough to note on this summary of contacts. It also serves as a finding aid to the memoranda of conversation and memoranda to the record which were written to document the information imparted in these personal contacts. The diary sheet may also be used to document the receipt date of important correspondence. Do not use the diary sheet to record conversations or other messages.

VI. **Case File Document Order when turned in for Supervisor Review.**

- A. The applicable case file documents will be arranged and turned in by CSHOs for supervisor review in the order listed below with the IOSH-1 being the top document.
- 1. IOSH-1 Safety & Health Inspection Report
 - 2. IOSH-1A Narrative

3. IOSH-2B Notice of Failure to Abate
 4. IOSH-8 Imminent Danger
 5. IOSH-36 Fatality Catastrophe Report
 6. IOSH-90 Referral Report
 7. IOSH-7 Complaint Form
 8. IOSH-1R Recordkeeping
 9. IOSH-1B Worksheets
 10. IOSH-1C Sampling Data Worksheets
 11. IOSH-98 Screening Report
 12. Field Notes
 13. Fair Information Practices Act Notice (Pink Sheets)
 14. Printed Information
 15. IOSH-89 Photographs
 16. Photographic information unrelated to cited hazards
- B. IOSH-1Bs alleging hazards will be numbered in the following order by Citation type.
1. Serious
 2. Willful
 3. Repeated
 4. Other than Serious

In the listing above if a case file contains all of the listed Citation classifications, the 1Bs addressing Serious hazards would be numbered as Citation 1, the 1Bs addressing hazards considered as Willful violations would be numbered as Citation 2, etc. If a case file does not contain a 1B alleging one of the listed citation classifications, then the first listed classification addressed would become Citation 1 and the next addressed classification would become Citation 2, etc. When a case file contains multiple 1Bs alleging hazards considered under the same classification, the items in that classification will be arranged with the lowest regulation number numbered as Item 1 and continuing until all 1B worksheets of that classification have been numbered.

VII. **Numbering System for Forms.**

- A. Number sampling data forms and field notes as a unit: Page 1 of 20, Page 2 of 20, Page 3 of 20, and so on. If a video or audiotape serves as field notes, so indicate and identify its location.
- B. You may number individual forms, such as the OSHA 1A, when there are several copies of the form. Number as 1 of 5, 2 of 5, 3 of 5, etc.
- C. DO NOT organize the case file documentation into appendixes. You may use divider tabs to permit easy reference.
- D. DO NOT page number the case file as a unit.

- VIII. **Subdivision of Inspection Case Files.** Elements of an inspection case file such as specific forms or groups of forms, citation-related photo worksheets, field notes, abatement information, informal conference information, and the like may be identified for easy reference using dividers with index tabs. This will allow compliance officers and others to quickly and easily find frequently referenced forms or groups of forms.

- IX. **Substitution of Records.** Electronic media or video-tape or audio-tape may substitute for paper records in the case file when all recordkeeping requirements are met. Further, any documentary materials listed above may be filed separately, such as videotapes and records maintained in electronic media. Records maintained in electronic media, in lieu of printing them out and filing them in the case file, must be maintained as a unit in an electronic document management system and clearly identified as part of the specific case file. The electronic system must meet all requirements for an electronic recordkeeping system.